

- 1 but in no event under the age of fifteen years, to
2 enter into a civil union, subject to section -3;
- 3 (3) The parties do not at that time have any lawful spouse
4 living; neither party has entered into a civil union
5 that has not been dissolved;
- 6 (4) Consent of neither party to the civil union has been
7 obtained by force, duress, or fraud;
- 8 (5) Neither of the parties is a person afflicted with any
9 loathsome disease concealed from, and unknown to, the
10 other party;
- 11 (6) The parties joined in a civil union shall have duly
12 obtained a license for that purpose from the agent
13 appointed to grant civil union licenses; and
- 14 (7) The ceremony be performed in the State by a person or
15 society licensed to solemnize marriages or civil
16 unions and the civil union partners and the person
17 performing the ceremony be all physically present at
18 the same place and time for the ceremony.

19 § -2 **Definition of civil union.** Whenever used in the
20 statutes or other laws of Hawaii, "civil union" means the union
21 licensed under section -1.



1 § **-3 Consent of parent or guardian.** Whenever any person
2 who is under the age of eighteen enters into a civil union, the
3 written consent of the parents, or guardian, or other person in
4 whose care and custody the minor may be, shall accompany the
5 application for a civil union license. No license shall be
6 issued to any minor who is under the jurisdiction of the family
7 court without the written consent of a judge of the family
8 court.

9 § **-4 Contracted without the State.** A marriage not
10 recognized by section 572-3 as a marriage, a civil union, a
11 domestic partnership, and any substantially similar contractual
12 arrangement that meets the requisites set forth in section -1
13 and legal in the jurisdiction where contracted shall be held
14 legal in the courts of this State and shall be considered a
15 civil union.

16 § **-5 Right of domicile, sex or legal relationship**
17 **status.** The right of an individual to be or to become a
18 resident domiciled in this State shall not be denied or abridged
19 because of the sex, civil union status, or marital status of the
20 individual. The residence of one spouse or partner does not
21 establish the residence of the other spouse or partner, which
22 shall be determined by the same factors that apply in



1 determining the residence of any other individual capable of
2 having an independent residence.

3 § -6 Civil union license; agent to grant; fee. (a) The
4 department of health shall appoint, and at its pleasure remove,
5 one or more suitable persons as agents authorized to grant
6 marriage and civil union licenses under this chapter in each
7 judicial circuit. The agents may issue marriage and civil union
8 licenses from any state facility when deemed necessary by the
9 director. Any agent appointed under this subsection and
10 receiving an application for a marriage or civil union license
11 shall collect from the applicant for the license \$60, of which
12 the agent, except those provided for in subsection (b), shall
13 retain \$9 for the agent's benefit and compensation and shall
14 remit \$51 to the director of health. Upon the receipt of
15 remittances under this subsection, the director shall deposit:

- 16 (1) \$32 for each license issued to the credit of the
17 general fund of the State;
- 18 (2) \$4.50 for each license issued to the credit of the
19 spouse and child abuse special account established
20 under section 346-7.5;



1 (3) \$4.50 for each license issued to the credit of the
2 spouse and child abuse special account established
3 under section 601-3.6; and

4 (4) \$10 for each license issued to the credit of the birth
5 defects special fund established under section
6 321-426.

7 (b) The department may appoint, as a regular employee
8 under the civil service and classification laws, the number of
9 suitable persons as agents authorized to grant marriage and
10 civil union licenses for whom provision has been made in the
11 general appropriation act. In the case of these agents, the
12 full amount collected from the applicants shall be remitted to
13 the director of health. Upon receipt of remittances under this
14 subsection, the director of health shall deposit:

15 (1) \$41 for each license issued to the credit of the
16 general fund of the State;

17 (2) \$4.50 for each license issued to the credit of the
18 spouse and child abuse special account established
19 under section 346-7.5;

20 (3) \$4.50 for each license issued to the credit of the
21 spouse and child abuse special account established
22 under section 601-3.6; and



1 (4) \$10 for each license issued to the credit of the birth
2 defects special fund established under section 321-
3 426.

4 (c) Every agent appointed under this section may
5 administer the oaths required by this chapter to be taken.

6 (d) The department of health or its authorized agents
7 shall furnish to each applicant for a civil union license a
8 brochure explaining rubella, the risks of infection with rubella
9 during pregnancy, and how to seek testing and immunization. The
10 department or its authorized agents shall also furnish to each
11 applicant for a civil union license information, to be provided
12 by the department, relating to population stabilization, family
13 planning, birth control, fetal alcohol and drug syndromes, and
14 acquired immune deficiency syndrome (AIDS), including the
15 availability of anonymous testing for human immunodeficiency
16 virus (HIV) infection at alternate test sites; provided that
17 such information is available.

18 (e) In addition to the fee prescribed under subsection
19 (a), the agent, except those provided for in subsection (b),
20 shall collect from the applicant for the license a surcharge of
21 \$5, of which the agent shall retain the full amount for the
22 agent's additional benefit and compensation.



1 § -7 **Application; license; limitations.** (a) To secure
2 a license to enter into a civil union, the person applying for
3 the license shall appear personally before an agent authorized
4 to grant marriage and civil union licenses and shall file with
5 the agent an application in writing. The application shall be
6 accompanied by a statement signed and sworn to by each of the
7 persons, setting forth: each person's full name, date of birth,
8 social security number; residence; their relationship, if any;
9 the full names of the parents; and that all prior marriages and
10 civil unions, if any, have been dissolved. If all prior
11 marriages and civil unions have been dissolved, the statement
12 shall also set forth the date of death of the last spouse and
13 the date and jurisdiction in which the last decree of
14 dissolution was entered. Any other information consistent with
15 the standard marriage or civil union certificate as recommend by
16 the Public Health Center, National Center for Health Statistics,
17 may be requested for statistical or other purposes, subject to
18 approval of and modification by department of health; provided
19 that the information shall be provided at the option of the
20 applicant and no applicant shall be denied a license for failure
21 to provide the information. The agent shall indorse on the
22 application, above the agent's signature, the date of the filing



1 of the application and shall issue a license that shall bear on
2 its face the date of issuance. Every license shall be effective
3 for thirty days commencing from and including the date of
4 issuance. After the thirty-day period, the license shall become
5 void and no solemnization ceremony shall be performed thereon.

6 (b) It shall be the duty of every person, legally
7 authorized to grant marriage and civil union licenses, to
8 immediately report the issuance of every civil union license to
9 the agent of the department of health in the district in which
10 the license is issued, setting forth all facts required to be
11 stated in such manner and on such form as the department may
12 prescribe.

13 § -8 **Persons under age.** Whenever any person who is
14 under the age of eighteen, whose parents are dead or who is a
15 ward of a family court, applies for a civil union license, the
16 person shall set forth in the statement accompanying the
17 application, the name of any guardian or of any other person in
18 whose care and custody the person may be.

19 § -9 **Applicant apparently under age.** If an applicant
20 for a civil union license appears to an agent to be under the
21 age of eighteen, before granting a civil union license, the



1 agent shall require the production of a certificate of birth or
2 other satisfactory proof showing the age of the applicant.

3 § -10 **Private solemnization not unlawful.** Nothing in
4 this chapter shall be construed to render unlawful, or otherwise
5 affirmatively punishable at law, the solemnization of
6 relationships by religious organizations; provided that nothing
7 in this section shall be construed to confer any of the
8 benefits, burdens, or obligations under the laws of Hawaii
9 through the private solemnization.

10 § -11 **License to solemnize.** It shall not be unlawful
11 for any person to perform a solemnization ceremony within the
12 State without first obtaining from the department of health a
13 license to solemnize civil unions.

14 § -12 **Requisites for license to perform the**
15 **solemnization.** A license to solemnize marriages and civil
16 unions may be issued to, and the rite may be performed and
17 solemnized by any minister, priest, or officer of any religious
18 denomination or society who has been ordained or is authorized
19 to solemnize civil unions according to the usages of such
20 denomination or society, or any religious society not having
21 clergy but providing solemnization in accordance with the rules
22 and customs of that society, or any justice, judge, or



1 magistrate, active or retired, of a state or federal court in
 2 the State, upon presentation to such person or society of a
 3 civil union license, as prescribed by this chapter. Such person
 4 or society may receive the price stipulated by the parties or
 5 the gratification tendered. Nothing in this section shall be
 6 construed to require a person licensed to perform marriage and
 7 civil union ceremonies to perform a marriage or civil union
 8 ceremony.

9 § -13 **Record of solemnization; reported by whom;**

10 **certified copies.** (a) Recordkeeping. Every person authorized
 11 to solemnize a civil union shall make and preserve a record of
 12 every civil union by the person solemnized, comprising the names
 13 of the parties joined, their place of residence, and the date of
 14 their union. Every person who neglects to keep a record of any
 15 solemnization shall be fined \$50.

16 (b) Reported by whom. It shall be the duty of every
 17 person, legally authorized to perform the solemnization
 18 ceremony, to report within three business days every
 19 solemnization performed by the person to the agent of the
 20 department of health in the district in which the solemnization
 21 takes place setting forth all facts required to be stated in a



1 standard certificate of civil union, the form and contents of
2 which shall be prescribed by the department of health.

3 (c) Certified copies of certificate of civil union. The
4 department of health shall deliver one certified copy of the
5 certificate of solemnization or the contents or any part thereof
6 as provided in section 338-13 to the persons joined. The
7 certificate shall be prima facie evidence of the fact of a civil
8 union in any proceeding in any court. Upon request, the
9 department of health shall furnish to any applicant additional
10 certified copies of the certificate of civil union or any part
11 thereof. Copies of the contents of any certificate on file in
12 the department, certified by the department, shall be considered
13 for all purposes the same as the original. The department may
14 prescribe reasonable fees to be paid for certified copies of
15 certificates.

16 § -14 Revocation or suspension of license to solemnize.

17 Any license to solemnize civil unions issued pursuant to section
18 -12 may be revoked or suspended by the department of health,
19 if the holder of the license has failed to comply with the
20 applicable provisions of this chapter or of the rules of the
21 department of health.



1 § -15 **Delivery of records to department of health;**
2 **penalty.** Whenever any agent authorized to grant marriage and
3 civil union licenses ceases to be an agent, or is directed to do
4 so by the department of health, or leaves the State permanently,
5 the agent shall deliver to the department all of the agent's
6 records of civil union licenses. Upon the death of any agent,
7 the records shall be delivered to the department by the agent's
8 representative. Whenever any person holding a license to
9 perform the solemnization ceremony is directed to do so by the
10 department, or whenever the license is canceled or otherwise
11 terminated, or upon the permanent departure of the person from
12 the State, the person shall deliver to the department all the
13 person's records of solemnization, or upon the death of the
14 person all records shall be delivered to the department by the
15 person's representative. Any person violating this section
16 shall be fined up to \$500.

17 § -16 **Rules.** The director of health may adopt such
18 rules under chapter 91 as may be necessary or appropriate to
19 carry out this chapter.

20 **PART II. PROPERTY CONTRACTS, DEBTS, AND LIABILITIES**

21 § -21 **Presumption of separate property.** There is a
22 rebuttable presumption that all property acquired in the name of



1 either of the civil union partners, without regard to the time
2 of acquisition thereof, is the separate property of the person
3 in whose name the property has been acquired.

4 § **-22 Contracts.** A person may enter into contracts with
5 the civil union partner or any other person in the same manner
6 as if the person was sole. An agreement between civil union
7 partners providing for periodic payments for the support and
8 maintenance of one civil union partner by the other, or for the
9 support, maintenance, and education of children of the parties,
10 when the agreement is made in contemplation of divorce or
11 separation, is valid, provided that the agreement shall be
12 subject to approval by the court in any subsequent proceeding
13 for divorce or judicial separation and that future payments
14 under an approved agreement shall nevertheless be subject to
15 increase, decrease, or termination from time to time upon
16 application and showing of circumstances justifying a
17 modification. All contracts made between civil union partners,
18 whenever made, and if enforceable under the law, shall be valid
19 to order the conveyance.

20 § **-23 Not liable for partner's debt.** A party to a civil
21 union is not liable for the debts of the civil union partner.



1 § **-24 Liabilities.** During their civil union, both
2 partners shall be bound to maintain, provide for, and support
3 each other, and shall be liable for all debts incurred by each
4 other for necessities for both partners and their families;
5 provided that when a support or maintenance obligation, however
6 designated, is imposed upon a person under chapter 580 or any
7 other law, the amount of the obligation shall be determined by
8 the appropriate court on the basis of factors enumerated in
9 section 580-47(a).

10 § **-25 Separate property.** The property of a civil union
11 partner shall remain that person's separate property, free from
12 the management, control, debts, and obligations of the other
13 civil union partner; and a civil union partner may receive,
14 receipt for, hold, manage, and dispose of property, in the same
15 manner as if that person were sole.

16 § **-26 May be personal representative, guardian, trustee,**
17 **or other fiduciary.** A civil union partner may be a personal
18 representative, guardian, trustee, custodian, or other fiduciary
19 and may bind the person's self and the person's estate without
20 any act or assent of the person's civil union partner.

21 § **-27 Persons as sureties.** A person, upon attaining
22 majority and having the necessary property qualifications as



1 required by law, may act, serve, and be a surety on all bonds
2 and undertakings required under the laws of the State.

3 § -28 **Suits by and against.** A party to a civil union
4 contract may sue and be sued in the same manner as if the person
5 were sole. This section shall be construed to authorize torts
6 suits between civil union partners.

7 § -29 **Settlement not invalidated.** Nothing contained in
8 this part shall invalidate any civil union settlement or
9 contract.

10 **PART III. MISCELLANEOUS**

11 § -31 **Outside of this chapter, all references to marital**
12 **status shall apply equally to civil unions.** Every reference in
13 the Hawaii Revised Statutes to "marriage" or any aspect thereof,
14 shall apply equally to "civil unions", including: every
15 reference in the Hawaii Revised Statutes to "married" shall
16 apply equally to those who have entered into a civil union;
17 every reference to "husband", "wife", or "spouse" shall apply
18 equally to a partner in a civil union; every other reference to
19 marital status, parties to a marriage, dissolution, et cetera,
20 shall apply equally to civil unions."

21 SECTION 2. Section 321-426, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "~~[+]§321-426[+]~~ **Birth defects special fund.** There is
 2 established within the state treasury the birth defects special
 3 fund to be administered and expended by the department of
 4 health, into which shall be deposited fees remitted pursuant to
 5 ~~[section]~~ sections 572-5~~[+]~~ and -6. Moneys in the special
 6 fund shall be used for the payment of the operating expenses of
 7 the birth defects program."

8 SECTION 3. Section 346-7.5, Hawaii Revised Statutes, is
 9 amended by amending subsection (c) to read as follows:

10 "(c) The account shall consist of fees remitted pursuant
 11 to sections 338-14.5 ~~[and]~~, 572-5, and -6, income tax
 12 remittances allocated under section 235-102.5, interest and
 13 investment earnings, grants, donations, and contributions from
 14 private or public sources. All realizations of the account
 15 shall be subject to the conditions specified in subsection (b)."

16 SECTION 4. Section 601-3.6, Hawaii Revised Statutes, is
 17 amended by amending subsection (c) to read as follows:

18 "(c) The account shall consist of fees remitted pursuant
 19 to sections 338-14.5 ~~[and]~~, 572-5, and -6, income tax
 20 remittances allocated under section 235-102.5, fines collected
 21 pursuant to sections ~~[+]586-4(e)[+]~~, 580-10, and 586-11,
 22 interest and investment earnings, grants, donations, and



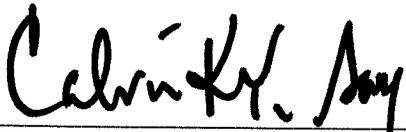
1 contributions from private or public sources. All realizations
2 of the account shall be subject to the conditions specified in
3 subsection (b)."

4 SECTION 5. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 6. This Act shall take effect upon its approval.

7

INTRODUCED BY:




JAN 20 2007



Report Title:
Civil Unions

Description:
Extends the same rights and responsibilities of spouses to partners in a civil union.